

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA, *et al.*
ex rel. HEALTH CHOICE ALLIANCE, LLC,

Plaintiffs,

V.

ELI LILLY & COMPANY, INC., HEALTHSTAR)
CLINICAL EDUCATIONAL SOLUTIONS, LLC,)
VMC BIOMARKETING, COVANCE, INC., &)
UNITED BIOSOURCE CORPORATION)

Defendants.

No. 5:17-cv-123-RWS-CMC

**DECLARATION OF BRIAN J. McCABE IN SUPPORT OF THE UNITED STATES'
MOTION TO DISMISS RELATORS' SECOND AMENDED COMPLAINT**

I, Brian J. McCabe, make the following declaration:

1. I am a Trial Attorney with the United States Department of Justice, Civil Division, Commercial Litigation Branch. I have personal knowledge of the matters discussed in this declaration.

2. Attached hereto as Exhibit A is a true and correct copy of an email I received on September 26, 2018, from Marc Mukasey, counsel for Venari Partners LLC d/b/a National Health Care Analysis Group (“NHCA Group”). The email message has been redacted to eliminate references to certain proceedings that remain under seal.

3. On September 27, 2018, I met with John Mininno, appearing on behalf of NHCA Group, and counsel representing NHCA Group. The meeting was held at my office, located at 175 N Street, N.E., Washington, D.C. 20002. During the meeting, Mr. Mininno confirmed that Venari Partners LLC is a limited liability corporation that was formed by four separate corporate

entities, which were themselves formed by six different individual investors, the majority of whom formerly or presently work in the banking or finance industry.

4. Attached hereto as Exhibit B is a graphical depiction prepared by the Department of Justice illustrating the relator's corporate structure and affiliation with other corporate relators formed by NHCA Group.

5. Attached hereto as Exhibits C-1 through C-3 are true and correct copies of excerpts from exemplar transcripts of witness interviews conducted by NHCA Group. The witnesses' names have been redacted.

I declare under penalty of perjury that the foregoing is true and correct. Executed this

17th day of December, 2018.

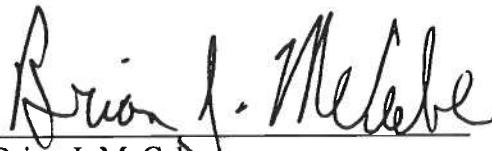

Brian J. McCabe

Exhibit A

From: mukaseym@gtlaw.com
To: [McCabe, Brian \(CIV\)](#)
Date: Wednesday, September 26, 2018 11:11:24 AM

Brian - It is my understanding that you are meeting [this Thursday \(9/27\)](#) with John Mininno and McKool Smith regarding [REDACTED]. Although I am not substantively involved in [REDACTED], to the extent you may have questions regarding Mininno and his organization (i.e., Venari Partners, LLC), I will be the primary point of contact. To that end, I understand you have asked for an updated list of cases filed by Venari and same is attached. I also understand you asked regarding Venari's structure/members. Venari Partners, LLC (d/b/a NHCAGroup) is a Delaware LLC that creates stand-alone LLC's to file each of its qui tam cases. Venari's members are as follows:

1. 110 Partners, LLC whose sole member is Peter Riccardo
2. Min-Fam-Holding, LLC whose sole member is John Mininno
3. Sweetbriar Capital LLC whose sole members are Brad Blaschak and Joe Riccardo
4. Uptown Investors, L.P. whose members are Michael and Jerry Callaghan (it's possible the ownership structure of this entity has deviated from this but no one who has been added has any affiliation with the defendants)

If there are any non-case specific questions you may have, please feel free to reach out to me. Further, if you expect Thursday's meeting to discuss [REDACTED]

[REDACTED] - then perhaps we could set aside a specific time period on Thursday and I can join by phone call. I am on a discussion panel at a conference [tomorrow from](#) 930am to 1130am but available after that. Thanks, Marc Mukasey.

Sent from my iPhone

If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at postmaster@gtlaw.com, and do not use or disseminate such information.

Exhibit B

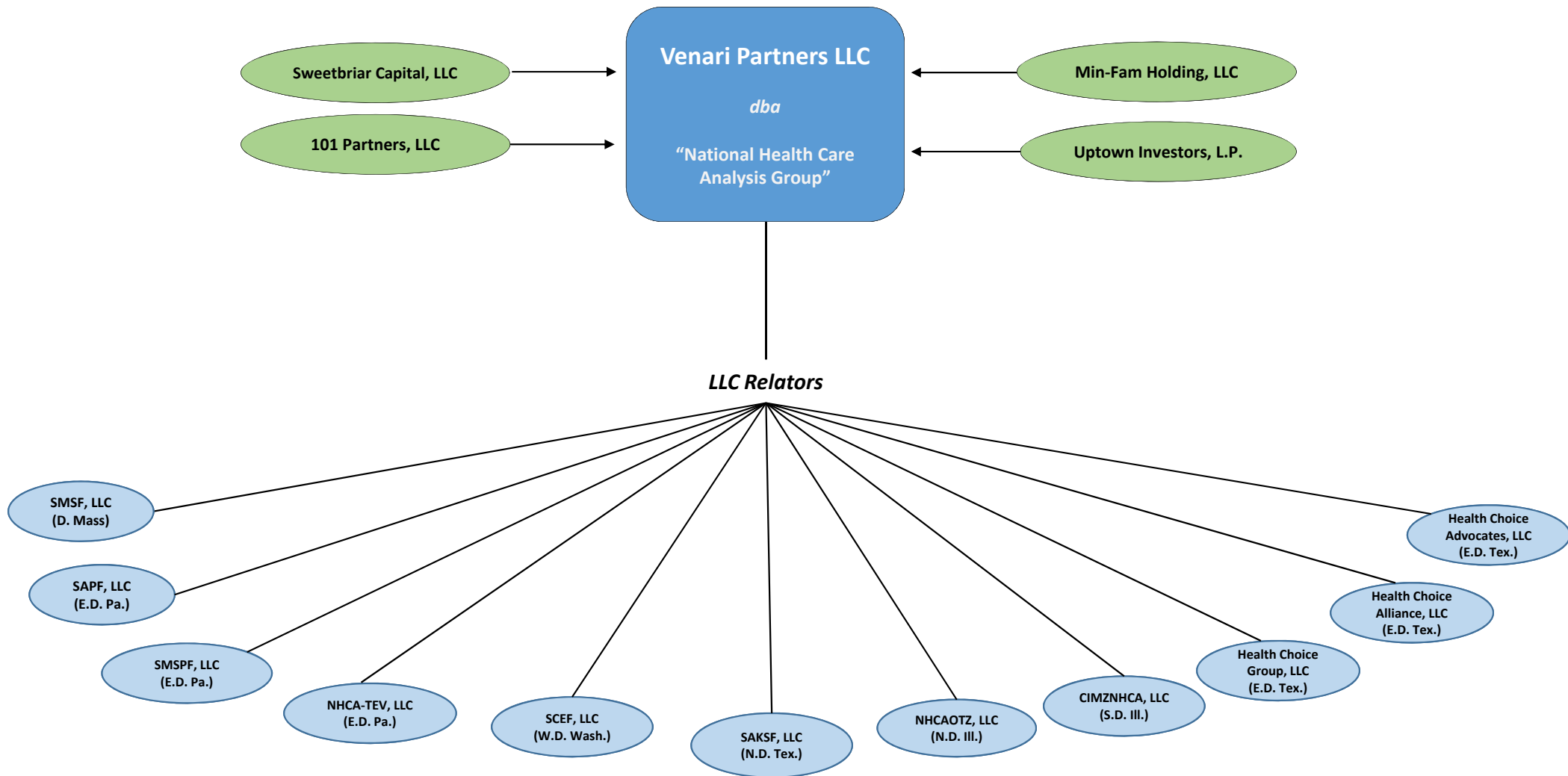


Exhibit C-1

- 1 1. Proceedings
- 2 2. [REDACTED]: Hello.
- 3 3. **John:** Hi [REDACTED], John Mininno From NHCA group. How are you?
- 4 4. [REDACTED]: Hi, good. How are you doing?
- 5 5. **John:** Good, good. Still a good time?
- 6 6. [REDACTED]: Yeah, sure it is. I thought you were going to call at 1:00 PM Eastern
- 7 because that's what came up on my Outlook calendar.
- 8 7. **John:** Oh sorry. You know what? It was 1:00 PM. I got my [inaudible 00:00:36] in
- 9 Eastern. I thought it was ... I'm sorry, totally screwed this up. Let me call you
- 10 back at 1:00.
- 11 8. [REDACTED]: No, this is actually a better time.
- 12 9. **John:** Oh good, even better. So, sorry about that. I always forget, I've got my
- 13 Eastern and Central, we are both on Eastern Time. Anyway, Ok. All right, we'll
- 14 dive right into it. A little introduction here. Thank you for taking the time to talk
- 15 to us about the pharmaceutical nurse educator industry. As you probably know
- 16 over the last decade, the pharmaceutical industry has made an enormous
- 17 investment in nurse educators. Over the last year and a half, our team has been
- 18 conducting research to understand whether that investment has been an effective
- 19 and efficient use of resources. We perform our research by conducting 55-minute
- 20 interviews of nurse educators, diabetes educators, other clinical educators and
- 21 the pharmaceutical sales reps who work with them. This research has allowed us
- 22 to develop an extensive knowledge-base to help us and others understand how
- 23 the industry works, how it does not work and how it may result in a positive
- 24 outcome or how may result in a negative outcome. Our hope is that one day we
- 25 will be able to have a positive influence on how nurse educators are used by the
- 26 pharmaceutical companies. This interview will last 55 minutes. As we go through
- 27 the process, I will periodically remind you where we are with respect to time.
- 28 Given that we have such a short time, there may be occasions where I need to
- 29 redirect you and move to another topic so that all topics can be covered. As is
- 30 customary in qualitative research, I will be recording the interview. This serves
- 31 mainly to help me be sure that I accurately record your responses to the research

1 questions and to assess my own performance. Because this is a research study,
2 the questions are standardized. Some of the questions will be open-ended and
3 require a more free-flowing response. Other questions will be a form of multiple-
4 choice where you'll be read a statement and have four options; A, strongly agree,
5 B, agree, C, strongly disagree or D, disagree. And then I will follow up with the
6 question, tell me why you answered in the way you did. The questions are
7 designed to cover wide ranges of roles in the industry. Some questions may not
8 apply to you in your particular role within the industry. Importantly we have no
9 bias one way or the other about the industry or your particular experiences in the
10 industry. We value your opinions, thoughts and insights and we ask you to share
11 them openly and honestly with us. At the end of the 55 minutes, you will receive
12 an email with payment information. You will be paid \$125 ... Hello.

13 10. [REDACTED]: You're cutting in and out. I'm sorry.

14 11. **John:** Ok. Is there a better number to call you on?

15 12. [REDACTED]: No, this is actually a very good number, but I'm not sure, it was good
16 up until about 30 seconds ago.

17 13. **John:** Ok, let me call you back on this number internally, maybe that's [inaudible
18 00:03:44] wants.

19 14. [REDACTED]: Ok. It's fine.

20 15. **John:** All right. Bye bye.

21 16. [REDACTED]: It's Ok. Bye bye. Hi, I hope this is better.

22 17. **John:** Oh yeah, you're right [inaudible 00:04:13] static but now it seems better.
23 Ok.

24 18. [REDACTED]: Oh good, good.

25 19. **John:** At the end of the 55 minutes, you will receive an email with payment
26 information. You will be paid \$125 for the 55 minutes. You will also receive a
27 survey link that has five survey questions regarding your experience during this
28 interview. That survey is optional. And with that introduction, let's begin, Ok?

29 20. [REDACTED]: Sounds good. Thank you.

30 21. **John:** No problem. The first series of questions deals with the pharmaceutical
31 company based training of nurse educators. So, question number one, it is

Exhibit C-2

BAYER CONFIDENTIAL INTERVIEWEE 4

October 18, 2016 Telephone Interview

1. **Interviewer:** Thank you for taking the time to talk with us about the reimbursement support industry. As you know we are a private research team looking to develop a better understanding of this industry. We conduct this research by conducting 55 minute interviews of reimbursement personnel and also the pharmaceutical sales reps. So over the last decade the pharmaceutical industry has made an enormous investment in reimbursement services. This research is important to help us understand whether that has been an effective use of resources. So as is customary in qualitative research I will be recording the interview. This serves mainly to ensure that I accurately record your responses and also to assess my own performance. The interview lasts 55 minutes. As we go through the process, I will periodically remind you where we are with respect to time. Given that we have such a short time, there may be times when I will have to redirect you and move you on to another topic, so that all topics can be covered. We have no particular bias one way or another about the industry. We value your opinions, thoughts and insights and we ask that you share them openly and honestly with us. Also at the end of 55 minutes you will receive an email with both the payment form with payment information, as you will be paid \$125 for the 55 minutes and a survey link that has 5 survey questions regarding your experience during the interview. The survey is optional. Some of the research questions will be open ended and require a more free flowing response. Other questions will be in the form of multiple choice, where you will be read a statement and have 4 options the A) you strongly agree, B) agree, C) strongly disagree and D) disagree. Then I will follow up with the question, tell me why you answered the way you did? Because this is research study the questions are standardized. The questions are designed to cover a wide range of roles within the industry, so some questions may not apply to you within your role within the industry. And finally with that intro let's begin. Just so we have it on record, I'm talking with CI-4 and you're employed by A-Line staffing right with the Lash Group?

2. **CI-4:** Yes

Exhibit C-3

CHRIS: Again, we are a private research team, working to develop a better understanding of this industry, the reimbursement support industry. We can get this research by conducting 55-minute interviews of reimbursement personnel and pharmaceutical sales reps. Over the last decade, the pharmaceutical industry has made an enormous investment in reimbursement support services. This research is important to help us understand whether that has been an effective use of resources. As is customary in qualitative research, I will be recording the interview.

This serves mainly to help me ensure that I accurately record your responses, and to assess my own performance. The interview allows 55 minutes and as we go through the process, I will periodically remind you where we are within respect of time. Even though we have such a short amount of time, there may be times where I have to redirect you and move onto another topic, so that all topics can be covered. We have no particular bias, one way or the other, about the industry. We value your opinions, your thoughts, and insights and we ask that you share them openly and honestly with us.

Also, at the end of the 55 minutes, you will receive an email with both payment information, as you will be paid \$125 for the 55 minutes, and a survey link that has five survey questions, regarding your experience during this interview. The survey is optional. Some of the research questions will be open-ended and require a more free-flowing response. Other questions will be in the form of multiple-choice; where you will be read a statement and have four options. A, you strongly agree; B, you agree; C, strongly disagree; or D, just disagree. Then, I will follow up with a question - tell me why you answered the way you did.

Now because this is a research study, the questions are standardized. The questions are designed to cover a wide range of roles within the industry. Some questions may not apply to your role within the industry. Finally, with that intro, are you ready?

██████: I am.

CHRIS: I just want to get on here that I'm talking to ██████, and you were a patient service coordinator for Biogen, for over eleven years?